

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF SOUTH CAROLINA

Ricky Gene Minor,)
Petitioner,) Case No. 4:10-cv-2325-RMG
)
 v.) **ORDER**
)
Warden FCI Williamsburg,)
Respondent.)
)

This matter is before the court on Petitioner's motion to proceed *informa pauperis* on appeal. (Dkt. No. 21). This motion was referred to the Magistrate Judge for a report and recommendation. The Magistrate Judge has reviewed the matter and recommends denying the motion. (Dkt. No. 24). Petitioner objects. (Dkt. No. 27). This Court has reviewed the matter *de novo* in light of Petitioner's objections and denies the motion. Petitioner attached a copy of his Inmate Statement showing the balance in his prison account as of November 27, 2010, as being \$2,920.73. In fact, the prison account statement indicates that he has maintained a balance exceeding \$2000.00 since April, 2010. The filing fee on appeal is \$455.00. Thus, Petitioner has not shown that he cannot pay the filing fee for appeal in this case. Although a litigant is not required to show that he is completely destitute in order to qualify as indigent within the meaning of 28 U.S.C. § 1915(a), *see Adkins v. E. I. Du Pont de Nemours & Co.*, 335 U.S. 331, 337-44 (1948), the "privilege to proceed without posting security for costs and fees is reserved to the many truly impoverished litigants who, within the District Court's sound discretion, would remain without legal remedy if such privilege were not afforded to them."

Brewster v. North American Van Lines, Inc., 461 F.2d 649, 651 (7th Cir. 1972). The Petitioner has

not established that he is impoverished based on his application and Inmate Statement. Thus, the motion is denied. (Dkt. No. 21).

AND IT IS SO ORDERED.



Richard Mark Gergel
United States District Court Judge

January 27, 2011
Charleston, South Carolina